

**Amendments to the Drawings**

The attached sheets of drawings include changes to FIGS. 3 and 4A. These sheets replace the original sheets for FIGS. 3 and 4A. In these figures, typographical errors have been corrected, as indicated on the Annotated Sheet Showing Changes.

Attachment: Replacement Sheet and Annotated Sheet Showing Changes

**REMARKS**

Reconsideration of the present application is respectfully requested. Claims 1 and 15- 27 have been amended. Claims 1 – 35 are currently pending.

**Rejections based on 35 U.S.C. § 101**

Claims 1 – 27 stand rejected under 35 U.S.C. §101 as being non-statutory subject matter. Independent claims 1 and 15 have been amended in response to this rejection. Claim 1 now recites a “computer-implemented” method that presents items “to the user on a display.” While the Office Action states the language of claim 1 “raises a question as to whether the claim is directed merely to an abstract idea,” the current amendments clarify that the claimed method is to be implemented by a computer and provides the concrete, useful, and tangible result of presenting items to a user on a display. In addition, claim 15 has now recites “computer-readable storage media storing a graphical user interface,” as suggested by the Office Action. As such, Applicants respectfully request withdrawal of the present rejections under 35 U.S.C. §101.

**Rejections based on 35 U.S.C. § 102**

Claims 1 – 35 stand rejected under 35 U.S.C. §102(a) as being anticipated by “Simplifying the Management of Large Photo Collections” by Girgensohn, *et al.* (“Girgensohn”). This rejection is respectfully traversed.

**Declaration under 37 C.F.R. § 1.131**

The present application was filed on January 23, 2004, while Girgensohn relies on a publication date of September 1, 2003. *See* Notice of References Cited. Applicants, however, conceived of and reduced their invention to practice before the publication date of the Girgensohn reference. Thus, the Girgensohn reference does not qualify as prior art.

Applicants have submitted a Declaration under 37 C.F.R. § 1.131, along with Exhibits A and B, to overcome the present rejection. In the Declaration, Applicants swear behind the effective date of the Girgensohn reference and attest that the date of conception of the present invention was at least before the publication date of the Girgensohn reference. Exhibits A and B provide written evidence to support such a date of conception. Exhibits A and B also show an actual reduction to practice prior to the publication of the Girgensohn reference.

Exhibit A is a press release evidencing the release of a software product titled “Microsoft® Digital Image Suite 9” on July 29, 2003. Exhibit B provides screen shots generated by the Microsoft® Digital Image Suite 9 product. These screen shots prove that the Digital Image Suite 9 product is an actual reduction to practice of the claimed invention. A mapping of claim 1 to the content of Exhibit B is provided as an example:

<p><b>Claim 1: A computer-implemented method for presenting a set of items to a user, the method comprising:</b> <b>dividing said set of items into one or more groups according to a selected characteristic;</b> <b>presenting at least a portion of said set of items in accordance with said groups to the user on a display;</b></p>
---

Pages 1 and 2 of Exhibit B illustrate the presentation of items (i.e., photographs) in groups, as dictated by a selected characteristic. For example, in the top screen shot on page 1 the photos are divided into a December 2003 group and a September 2003 group.

<p><b>presenting a listing of said groups on said display; and</b> <b>indicating on said display which of said groups contain one or more items currently visible to the user.</b></p>
--

The center, vertical column of the screen shots displayed on pages 1 and 2 provides a listing of the groups used to divide the photos. In addition, a horizontal, gray bar indicates the groups currently visible to the user in the right-most pane. For instance, the gray bar in the first screen shot on page 1 indicates the images from December 2003 and September

2003 are presently being displayed to the user. Because the Microsoft® Digital Image Suite 9 product includes each and every claimed aspect of the present invention, it is an actual reduction to practice that pre-dates the effective date of the Girgensohn reference.

Applicants further note that the screen shots provided by Exhibit B are similar to FIGS. 2A-C and FIGS. 5A-C of the present application and that these figures also indicate their creation by Microsoft® Digital Image Suite 9. As such, the specification of the present application, in discussing FIGS. 2A-C and FIGS. 5A-C, may provide further guidance regarding the mapping of the claimed invention to the interface provided by Microsoft® Digital Image Suite 9.

In sum, the Declaration and written evidence demonstrate that Applicants conceived of the present invention and reduced it to practice before the effective date of the Girgensohn reference. As such, the Office Action can no longer maintain a valid rejection under 35 U.S.C. § 102(a) as the Girgensohn reference does not qualify as prior art. Accordingly, withdrawal of the rejection of claims 1 - 35 under 35 U.S.C. §102(a) is respectfully requested.

**Conclusion**

For the reasons stated above, claims 1 – 35 are in condition for allowance. If any issues remain which would prevent issuance of this application, the Examiner is urged to contact the undersigned prior to issuing a subsequent action. The Commissioner is hereby authorized to charge any additional amount required, or credit any overpayment, to Deposit Account No. 19-2112.

Respectfully submitted,

*/rhr/ Robert H. Reckers*

Robert H. Reckers  
Reg. No. 54,633

SHOOK, HARDY & BACON L.L.P.  
2555 Grand Boulevard  
Kansas City, Missouri 64108  
Phone: 816/474-6550  
Fax: 816-421-5547